BILL NO. S-91-06-52

SPECIAL ORDINANCE NO. S-181-91

AN ORDINANCE approving Contract #6187-91, HAMILTON NSA '91, CURBS, WALKS, & DRAINAGE STRUCTURES between TOMCO CONSTRUCTION CO., INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works and Safety.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the Contract #6187-91, HAMILTON NSA '91, CURBS, WALKS & DRAINAGE STRUCTURES by and between TOMCO CONSTRUCTION CO., INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works and Safety, is hereby ratified, and affirmed and approved in all respects, respectfully for:

the improvement of St. Marys Avenue from the centerline of Sinclair Street to the centerline of Fourth Street by reconstructing curbs, sidewalks and drainage structures;

involving a total cost of Thirty-Nine Thousand Four Hundred Fifteen and 70/100 Dollars ($39,415.70).

SECTION 2. Prior Approval has been requested from Common Council on MAY, 28, 1991. Two copies of said Contract are on file with the Office of the City Clerk and made available for public inspection, according to .

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Janet G. Bradbury
Councilmember

APPROVED AS TO FORM
AND LEGALITY

J. Timothy McCaulay
J. Timothy McCaulay, City Attorney

CONTRACT NO. 6187-91
HAMILTON NSA'91

BOARD ORDER NO. 16-91 WORK ORDER NO. 10,902

THIS CONTRACT made and entered into in triplicate this 12 day of JUNE, 1991, by and between **TOMCO CONSTRUCTION CO., INC.**, herein called CONTRACTOR, and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, acting by and through the Mayor and the Board of Public Works and Safety, herein called OWNER;

WITNESSETH, that the CONTRACTOR and the OWNER, for the considerations hereinafter named, agree as follows:

ARTICLE 1: SCOPE OF WORK

CONTRACTOR shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the following:
To improve St. Marys Avenue from the centerline of Sinclair Street to the centerline of Fourth Street by reconstructing curbs, sidewalks and drainage structures.

all according to Res. No. 6187-91 and do everything required by this contract and the other documents constituting a part hereof.

ARTICLE 2: THE CONTRACT SUM

The OWNER shall pay CONTRACTOR for the performance of the contract the unit price sum of **$39,415.70.** In the event the amount of work is increased or decreased by OWNER, the contract sum shall be increased or decreased according to the unit price schedule set forth in the CONTRACTOR's Proposal.

ARTICLE 3: PROGRESS PAYMENTS

The OWNER shall make payments on account of the contract as provided herein, as follows:

Monthly progress payments will be made by OWNER upon submission of a statement of quantities of work completed and/or materials supplied to the job site as of the end of each month. On or about the 15th day of the following month, ninety percent (90%) of the value of the work performed up to the first day of that month (based on the contract price of labor and materials incorporated in the work) and as estimated by the CONTRACTOR and approved or revised by the Engineering Department of the OWNER less the aggregate of previous payments, will be paid by OWNER to the CONTRACTOR.

ARTICLE 4: ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and accepted and the contract is fully performed.

Upon filing of a Completion Affidavit by the CONTRACTOR that the work is ready for final inspection and acceptance, the Board of Public Works and Safety will direct the Engineering Department of the OWNER to promptly make such inspection. When the Engineering Department finds the work acceptable under the contract, and the contract is fully performed, it shall so inform the Board of Public Works and Safety, which shall issue a final certificate stating that the work provided for in this Contract has been completed and is accepted. Thereupon the entire balance of the Contract sum shall be due and payable to the CONTRACTOR; provided only that CONTRACTOR shall first furnish OWNER, if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid, and all required manpower utilization reports for this project have been submitted.

ARTICLE 5: WORKMEN'S COMPENSATION ACT

The CONTRACTOR will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with the Workmen's Compensation Act in accordance with Statutes of the State of Indiana and Ordinances of the City of Fort Wayne.

Any judgment rendered against the City of Fort Wayne in any suits for damages for injury to real or personal property, or for any injury sustained by any person growing out of any act or doing of Contractor, or its agents, employees or workmen or any judgment of any court or award o any Board of Arbitrators or of the Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation for accidental injuries or death suffered by his employees or the employees of any Subcontractor or Subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said CONTRACTOR, shall be conclusive against CONTRACTOR as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that CONTRACTOR indemnify and hold harmless OWNER in the premises.

ARTICLE 6: NONDISCRIMINATION OF LABOR

The CONTRACTOR further agrees to be bound by Section 15-13 (as amended), of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978. The successful bidder shall file a Manpower Utilization Report for this project with the Compliance Office within ten (10) days after completion of construction or upon request of the Office of Compliance.

ARTICLE 7: PREVAILING WAGE SCALE

The CONTRACTOR agrees to pay, and also requires of his subcontractors that they pay wage rates on the work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the Statutes of the State of Indiana, and the Ordinances of the City of Fort Wayne according to the applicable wage scale as included in the bid documents.

ARTICLE 8: COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of the contract as if hereto attached or herein repeated:

a. Advertisement for Bids, for Resolution No. 6187-91.
b. Instructions to Bidders for Resolution No. 6187-91.
c. Contractor's Proposal Dated 5/22/91.
d. Ft. Wayne Street Engineering Drawings accompanying bid packet for Resolution No. 6187-91.
e. Supplemental Specifications accompanying bid packet for Resolution No. 6187-91.
f. Workmen's Compensation Act, Statutes of the State of Indiana and Ordinances of the City of Fort Wayne.
g. Non-Discrimination of Labor, General Ordinance No. G-34-78 (as amended).
h. Prevailing Wage Scale.
i. Performance and Guaranty Bond.
j. Labor and Material Payment Bond.
k. Right-of-Way Cut Permit.
l. Comprehensive Liability Insurance Coverage.
m. Minority/Female Employment Hourly Utilization
n. MBE/EBE Committment Form

ARTICLE 9: GUARANTEE OF WORKMANSHIP

At the time of execution of this contract, the CONTRACTOR shall furnish a Performance and Guaranty Bond in favor of the City of Fort Wayne in the amount of the total value of the materials supplied and/or work performed under the terms of this contract. The said bond shall ensure the completion of the work covered hereunder and shall guarantee the materials and workmanship for a period of three (3) years following written acceptance of the work by the OWNER.

ARTICLE 10: INDEMNITY

CONTRACTOR shall furnish to OWNER, within ten (10) days of the date hereof, a certificate from an insuror acceptable to OWNER showing personal injury and property damage insurance, in force and issued in connection with the work to be performed under this Contract, in amounts satisfactory to OWNER and in accordance with the Statutes of the State of Indiana.

ARTICLE II: ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the CONTRACTOR and the OWNER under the provisions of this Contract shall be subject to the decision of the Director of Public Works & Safety of the OWNER, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases of the work covered by this Contract will be permitted except on prior written authorization by the Board of Public Works and Safety.

ARTICLE 12:

The CONTRACTOR agrees to complete the work specified in the contract by 9/30/91 after having been ordered by the OWNER to commence work under this contract.

ARTICLE 13: COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the OWNER by the Mayor and Board of Public Works and Safety of the City of Fort Wayne, Indiana, shall not be binding upon the OWNER unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within ninety (90) days after the date hereof, then this Contract shall be and become wholly void.

ARTICLE 14:

This contract is governed by Laws of the State of Indiana.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CONTRACTOR

BY: JUDITH W. FISHERING

President

BY: THOMAS M. FISHERING

Secretary

CITY OF FORT WAYNE, INDIANA

BY: _____

Paul Helmke, Mayor

BOARD OF PUBLIC WORKS & SAFETY

Charles E. Layton
Director of Public Works

E. Sharon Banks
Chief of Staff

Douglas M. Lehman
Director of Administration & Finance

ATTEST:

Patricia J. Crick, Clerk

ACKNOWLEDGMENT

STATE OF INDIANA:

SS:

COUNTY OF ALLEN:

BEFORE ME, a Notary Public, in and for said County and State, this 10th day of June, 1991, personally appeared the within named Judith W. & Thomas M. Fishering, who, being by me first duly sworn upon their oaths, say that they are the Pres. & Sec. of Tomco Const. Co., Inc., and as such duly authorized to execute the foregoing instrument and acknowledged the same as the voluntary act and deed of Tomco Const. Co., Inc. for the uses and purposes therein set forth.

Carolyn S. Newport
NOTARY PUBLIC

CAROLYN S. NEWPORT
NOTARY PUBLIC STATE OF INDIANA
ALLEN CO.
MY COMMISSION EXPIRES JUNE 21, 1991
ISSUED THRU INDIANA NOTARY ASSOC.

(Type or print name of notary)

MY COMMISSION EXPIRES:_____

ACKNOWLEDGEMENT

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

BEFORE ME, a Notary Public, in and for said County and State, this 12th day of June, 1991, personally appeared the within named Paul Helmke, Mayor of the City of Fort Wayne; Charles E. Layton, ~~E. Sharon Banks~~ and Douglas M. Lehman, members of the Board of Public Works and Safety, City of Fort Wayne, Indiana; and Patricia J. Crick, Clerk of the Board of Public Works and Safety, City of Fort Wayne, Indiana, to me personally known, who being by me duly sworn said that they are respectively the Mayor of the City of Fort Wayne, the Members and Clerk of the Board of Public Works and Safety of the City of Fort Wayne, Indiana, and that they signed said instrument on behalf of the City of Fort Wayne, Indiana, with full authority so to do and acknowledged said instrument to be the voluntary act and deed of said City for the uses and purposes therein set forth.

IN WITNESS WHEREOF, hereunto subscribed my name, affixed my official seal.

CAROLYN S. NEWPORT
NOTARY PUBLIC STATE OF INDIANA
ALLEN CO.
MY COMMISSION EXPIRES JUNE 21, 1991
ISSUED THRU INDIANA NOTARY ASSOC.

Carolyn S. Newport
NOTARY PUBLIC

Type or Print Name of Notary

My Commission Expires: _____

Approved by the Common Council of the City of Fort Wayne on day of _____, 19_____.

Special Ordinance No._____.

Read the first time in full and on motion by Bradbury, seconded by Edmonds, and duly adopted, read the second time by title and referred to the Committee on Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock 4 .M.,E.S.T.

DATED: 6-25-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Bradbury, seconded by DeDonta, and duly adopted, placed on its passage. ~~PASSED~~ LOST by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	4			
BRADBURY	✓			
BURNS	✓			
EDMONDS	✓			
GiaQUINTA	✓			
HENRY	✓			
LONG	✓			
REDD	✓			
SCHMIDT	✓			
TALARICO	✓			

DATED: 7-9-91.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ ~~(APPROPRIATION)~~ (GENERAL) (SPECIAL) ~~(ZONING~~ MAP) ORDINANCE ~~RESOLUTION~~ NO. S-181-91 on the 9th day of July, 19 91,

ATTEST: Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

SEAL
Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 10th day of July, 19 91, at the hour of 4:00 o'clock P.M.,E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 15th day of July, 19 91, at the hour of 6:15 o'clock P.M.,E.S.T.

PAUL HELMKE, MAYOR

Admn. Appr.

TITLE OF ORDINANCE: Contract #6187-91, Hamilton NSA '91, curbs, sidewalks & drainage structures

DEPARTMENT REQUESTING ORDINANCE: Board of Public Works

SYNOPSIS OF ORDINANCE: Contract #6187-91, Hamilton NSA '91, is for the improvement of St. Marys Avenue from the centerline of Sinclair Street to the centerline of Fourth Street by reconstructing curbs, sidewalks and drainage structures. Tomco Construction Co., Inc., is the contractor. **PRIOR APPROVAL RECEIVED ON 5/28/91.**

EFFECT OF PASSAGE: Improved curbs, walks & drainage structures at above location.

EFFECT OF NON PASSAGE:

D-91-06-52

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGs) $39,415.70

ASSIGNED TO COMMITTEE:

BILL NO. S-91-06-53

REPORT OF THE COMMITTEE ON PUBLIC WORKS

JANET G. BRADBURY, CHAIRPERSON
CLETUS R. EDMONDS, VICE CHAIRMAN
GiaQUINTA, REDD, HENRY

WE, YOUR COMMITTEE ON PUBLIC WORKS TO WHOM WAS REFERRED AN (ORDINANCE) (~~RESOLUTION~~) approving Contract #6187-91, HAMILTON NSA '91 CURBS, WALKS & DRAINAGE STRUCTURES between TOMCO CONSTRUCTION CO., INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works and Safety

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) (~~RESOLUTION~~)

DO PASS	DO NOT PASS	ABSTAIN	NO REC
J. Bradbury			
Charles Redd			

DATED: 1-9-91.

Sandra E. Kennedy
City Clerk